

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**In re:** :  
:  
**Henry Eugene Bailey aka Henry E.** : **Case No.: 11-16309**  
**Bailey, Jr.** : **Chapter 13**  
**Debtor(s).** : **Judge Burton Perlman**  
\*:\*\*\*\*\*:  
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**MOTION OF JPMORGAN CHASE BANK, NATIONAL ASSOCIATION FOR  
RELIEF FROM STAY ON FIRST MORTGAGE FOR REAL PROPERTY LOCATED  
AT 3642 NORTHDALE PLACE, CINCINNATI, OH 45237**

JPMorgan Chase Bank, National Association (the "Creditor") in this proceeding under Chapter 13 of the Bankruptcy Code, and pursuant to 11 U.S.C. Section 362(d) of the Bankruptcy Code, Rules 4001, 9013 and 9014 of the Bankruptcy Rules and Local Bankruptcy Rules 4001-1, by and through its mortgage servicing agent JPMorgan Chase Bank, NA, respectfully moves this Court for relief from the automatic stay imposed by 11 U.S.C. Section 362(a) in order to proceed with a state court proceeding to foreclose on the property located at 3642 Northdale Place, Cincinnati, OH 45237. The grounds upon which this Motion is made are more fully set forth in the attached Memorandum in Support.

**MEMORANDUM IN SUPPORT**

1. The Court has jurisdiction over this matter under 28 U.S.C. § 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On October 10, 2001, Henry Eugene Bailey aka Henry E. Bailey, Jr. ("Debtor") obtained a loan from Humbert Mortgage, Inc. in the amount of \$94,500.00. Such loan was

evidenced by a Promissory Note dated October 10, 2001 (the "Note"), a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtor executed a Mortgage dated October 10, 2001 (the "Mortgage"). The Mortgage granted a lien on the real property (the "Property") owned by the Debtor, located at 3642 Northdale Place, Cincinnati, OH 45237 and more fully described in the Mortgage. Henry E. Bailey acquired title to the Property by virtue of a deed from Liberty Savings Bank, dated January 13, 2000, filed January 18, 2000, recorded in Official Records Volume 8172, Page 1413, Recorder's Office, Hamilton County, Ohio. A copy of said Deed is attached as Exhibit B.
4. The lien created by the Mortgage was duly perfected by the filing of the Mortgage in the office of the Hamilton County Recorder on October 18, 2001. A copy of the Mortgage is attached as Exhibit C. The lien is the first lien on the property.
5. The Note was transferred as follows:
  - a. from Humbert Mortgage Inc. to Trustcorp Mortgage Company. The transfer is evidenced by the endorsement attached to this Motion as Exhibit A.
  - b. from Trustcorp Mortgage Company to \_\_\_\_\_. The transfer is evidenced by the endorsement attached to this Motion as Exhibit A. Because the endorsement is in blank and Creditor is in possession of the original Note, Creditor is entitled to enforce the instrument.
6. The Mortgage was transferred as follows:
  - a. from Humbert Mortgage Inc. to Trustcorp Mortgage Company, dated January 22, 2002. The transfer is evidenced by the document attached to this Motion as Exhibit D.
  - b. from Trustcorp Mortgage Company to Chase Mortgage Company, dated August 14, 2002. The transfer is evidenced by the document attached to this Motion as Exhibit E.

- c. Chase Manhattan Mortgage Corporation is the successor in interest to Chase Mortgage Company as described in detail in the Merger documents attached to the Motion as Exhibit F.
  - d. Chase Home Finance, LLC is the successor in interest to Chase Manhattan Mortgage Corporation as described in detail in the Certificate of Merger attached to the Motion as Exhibit G.
  - e. JPMorgan Chase Bank, National Association is the successor in interest to Chase Home Finance, LLC as described in detail in the Certificate of Merger attached to the Motion as Exhibit H.
7. The value of the Property is \$140,150.00. This valuation is based on the Auditor's tax record which is attached as Exhibit I.
8. As of the date of this Motion, there is currently due and owing on the Note the outstanding balance of \$81,607.69, plus interest accruing thereon at the rate of 7% per annum from December 1, 2008.
9. Other parties known to have an interest in the Property are as follows:
- a. the Hamilton County Treasurer;
10. The Creditor is entitled to relief from the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reason(s):
- a. Debtor has failed to provide adequate protection for the lien held by the Creditor for the reasons set forth below.
  - b. Debtor has failed to make periodic payments or has made partial payments to Creditor since the commencement of this bankruptcy case for the months of November 2011 through February 2012. Per the Note and Mortgage, payments are applied to the last month due. Based upon the foregoing, Debtor is post petition due for November 2011 through February 2012, which unpaid payments less any funds being held in post-petition suspense are in the aggregate amount of \$5,036.62. The total provided in this paragraph cannot be relied upon as a postpetition reinstatement quotation.
  - c. Debtor intends to surrender the Property located at 3642 Northdale Place, Cincinnati, OH 45237 according to the Chapter 13 Plan filed.
11. Creditor has completed the worksheet attached as Exhibit J.

12. This Motion conforms to the standard form adopted in this District except as follows:

Clarification of language in Paragraph 3.

WHEREFORE, Creditor prays for an Order from the Court granting Creditor relief from the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code to permit Creditor to proceed under law and for such other and further relief to which the Creditor may be entitled.

Respectfully submitted,

/s/ James E. Tebbutt  
James E. Tebbutt (0084830)  
Holly N. Wolf (0068847)  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus OH 43216-5028  
Telephone: 614-220-5611  
Fax: 614-627-8181  
Email: jet@mdk-llc.com  
Attorneys for Creditor

**NOTICE OF MOTION**

JPMorgan Chase Bank, National Association has filed papers with the court to obtain relief from stay.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

Clerk of the United States Bankruptcy Court  
Atrium Two, Suite 800  
221 East Fourth Street  
Cincinnati, OH 45202

OR your attorney must file a response using the court's ECF system.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to

Manley Deas Kochalski LLC  
Attention: James E. Tebbutt  
P.O. Box 165028  
Columbus OH 43216-5028

Office of U.S. Trustee  
Southern District of Ohio  
Party of Interest  
36 East Seventh Street  
Suite 2050  
Cincinnati, OH 45202

Margaret A. Burks  
600 Vine Street  
Suite 2200  
Cincinnati, OH 45202  
cincinnati@cinn13.org

L. Joshua Davidson  
Attorney for Henry Eugene Bailey aka  
Henry E. Bailey, Jr.  
8035 Hosbrook Road  
Suite 200  
Cincinnati, OH 45236  
josh@omdlaw.com

Henry Eugene Bailey aka Henry E. Bailey,  
Jr.  
7002 Ohio Avenue, Apt. No. 2  
Cincinnati, OH 45236

Henry Eugene Bailey aka Henry E. Bailey,  
Jr.  
3642 Northdale Place  
Cincinnati, OH 45237

Hamilton County Treasurer  
County Administration Building  
138 East Court Street  
Cincinnati, OH 45202

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

#### CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2012, a copy of the foregoing Motion for Relief from Stay on First Mortgage for Real Property Located at 3642 Northdale Place, Cincinnati, OH 45237 was served on the following registered ECF participants, **electronically** through the court's ECF System at the email address registered with the court:

Office of U.S. Trustee  
Southern District of Ohio  
Party of Interest  
36 East Seventh Street  
Suite 2050  
Cincinnati, OH 45202

Margaret A. Burks  
600 Vine Street  
Suite 2200  
Cincinnati, OH 45202  
cincinnati@cinn13.org

L. Joshua Davidson  
Attorney for Henry Eugene Bailey aka  
Henry E. Bailey, Jr.  
8035 Hosbrook Road  
Suite 200  
Cincinnati, OH 45236  
josh@omdlaw.com

and on the following by **ordinary U.S. Mail**, addressed to:

Henry Eugene Bailey aka Henry E. Bailey,  
Jr.  
7002 Ohio Avenue, Apt. No. 2  
Cincinnati, OH 45236

Hamilton County Treasurer  
County Administration Building  
138 East Court Street  
Cincinnati, OH 45202

Henry Eugene Bailey aka Henry E. Bailey,  
Jr.  
3642 Northdale Place  
Cincinnati, OH 45237

/s/ James E. Tebbutt  
James E. Tebbutt